

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

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| Case No. | CV 16-2176 PA (JPRx) | Date | April 20, 2016 |
| Title | Rachel Burrell v. Integra Lifesciences Corp. | | |

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| Present: The Honorable | PERCY ANDERSON, UNITED STATES DISTRICT JUDGE | | |
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| Stephen Montes Kerr | Not Reported | N/A |
| Deputy Clerk | Court Reporter | Tape No. |

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| Attorneys Present for Plaintiff: | Attorneys Present for Defendant: |
| None | None |

Proceedings: IN CHAMBERS - COURT ORDER

Before the Court is a Notice of Removal filed by defendant Integra Lifesciences Corp. (“Defendant”) on March 30, 2016. Defendant asserts that this Court has jurisdiction over the action brought against it by plaintiff Rachel Burrell (“Plaintiff”) based on the Court’s diversity jurisdiction. See 28 U.S.C. § 1332.

Federal courts are courts of limited jurisdiction, having subject matter jurisdiction only over matters authorized by the Constitution and Congress. See, e.g., Kokkonen v. Guardian Life Ins. Co., 511 U.S. 375, 377, 114 S. Ct. 1673, 1675, 128 L. Ed. 2d 391 (1994). A suit filed in state court may be removed to federal court if the federal court would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). A removed action must be remanded to state court if the federal court lacks subject matter jurisdiction. 28 U.S.C. § 1447(c). “The burden of establishing federal jurisdiction is on the party seeking removal, and the removal statute is strictly construed against removal jurisdiction.” Prize Frize, Inc. v. Matrix (U.S.) Inc., 167 F.3d 1261, 1265 (9th Cir. 1999). “Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992).

In attempting to invoke this Court’s diversity jurisdiction, Defendant must prove that there is complete diversity of citizenship between the parties and that the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332. To establish citizenship for diversity purposes, a natural person must be a citizen of the United States and be domiciled in a particular state. Kantor v. Wellesley Galleries, Ltd., 704 F.2d 1088, 1090 (9th Cir. 1983). Persons are domiciled in the places they reside with the intent to remain or to which they intend to return. See Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001). For the purposes of diversity jurisdiction, a corporation is a citizen of any state where it is incorporated and of the state where it has its principal place of business. 28 U.S.C. § 1332(c); see also Indus. Tectonics, Inc. v. Aero Alloy, 912 F.2d 1090, 1092 (9th Cir. 1990).

The Notice of Removal alleges that “Plaintiff is a resident of the County of Los Angeles,” citing the Complaint. The Complaint states that “Plaintiff is, and at all relevant times was, a resident of the

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County of Los Angeles, State of California.” (Complaint ¶ 5.) Because an individual is not necessarily domiciled where he or she resides, Defendant’s allegation that Plaintiff is a California resident is insufficient to establish Plaintiff’s citizenship. See Kanter v. Warner-Lambert Co., 265 F.3d at 857. “Absent unusual circumstances, a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties.” Id.; Bradford v. Mitchell Bros. Truck Lines, 217 F. Supp. 525, 527 (N.D. Cal. 1963) (“A petition [for removal] alleging diversity of citizenship upon information and belief is insufficient.”). As a result, Defendant’s allegations are insufficient to invoke this Court’s diversity jurisdiction.

Defendant must also establish that the amount in controversy exceeds \$75,000. When an action has been removed and the amount in controversy is in doubt, there is a “strong presumption” that the plaintiff has not claimed an amount sufficient to confer jurisdiction. Gaus, 980 F.2d 564, 566 (9th Cir. 1992) (citing St. Paul Mercury Indem. Co. v. Red Cab Co., 303 U.S. 283, 288–90, 58 S. Ct. 586, 590–91, 82 L. Ed. 845 (1938)). “When not facially evident from the complaint that more than \$75,000 is in controversy, the removing party must prove, by a preponderance of the evidence, that the amount in controversy meets the jurisdictional threshold.” Matheson v. Progressive Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir. 2003). “Conclusory allegations as to the amount in controversy are insufficient.” Id. at 1090-91. “Under this burden, the defendant must provide evidence establishing that it is ‘more likely than not’ that the amount in controversy exceeds [\$75,000].” Sanchez v. Monumental Life Ins. Co., 102 F.3d 398, 404 (9th Cir. 1996).

Here, Defendant argues that the amount in controversy requirement is satisfied by totaling Plaintiff’s demands for back pay, attorneys’ fees, punitive damages. Plaintiff earned an annual salary of \$40,000 when she was terminated. Thus, according to Defendant, Plaintiff’s lost wages, based solely on her base salary, total approximately \$57,000. Defendant notes that Plaintiff was also eligible for commissions and bonuses, but does not specify any concrete figures. Although Defendant cites retaliation and wrongful termination cases in which plaintiffs have won punitive damages and attorneys’ fees in excess of the balance required to reach \$75,000, Defendant makes no attempt in the Notice of Removal to analogize the facts of these cases to the instant case. Accordingly, the Court cannot find that it is more likely than not that the amount in controversy exceeds \$75,000.

Conclusion

For the foregoing reasons, Defendant has failed to satisfy its burden of showing that diversity jurisdiction exists over this action. Accordingly, this action is hereby remanded to Los Angeles County Superior Court, Case No. BC609763 for lack of subject matter jurisdiction. See 28 U.S.C. § 1447(c).

IT IS SO ORDERED.